

ENVIRONMENTAL NEWS



Newsletter of the N.H. Department of Environmental Services

November/December 2006

Governor's Message

2006 Governor's Award for P2 announced

New Hampshire's natural beauty and special environment help drive our state's economic growth, and is key to our state's economic future and the quality of life of our citizens. New Hampshire's business community understands that, and we are lucky to have so many businesses

committed to working with us to protect and improve our environment.



Governor Lynch

New Hampshire established in 1994 the Governor's Award for Pollution Prevention to recognize New Hampshire businesses and organizations that have made a special commitment to our environment by successfully reducing or eliminating wastes at the source. This month, two New Hampshire companies – Monadnock Paper Mills in Bennington and Park Nameplate in Dover – will be presented with the 12th Annual New Hampshire Governor's Award for Pollution Prevention.

Monadnock Paper Mills, Inc. began its long history of papermaking in 1819. This year's Governor's Award recognizes its successful efforts to reduce its energy consumption by more

Governor, continued on page 8

Welcome new commissioner Thomas Burack

A new commissioner has taken the helm at the Department of Environmental Services. Thomas S. Burack of Hopkinton was confirmed as only the fourth commissioner of DES at a Governor and Council meeting on September 13. His term began November 1 and is effective through July 7, 2010.



Burack, a New Hampshire native, comes to DES from the law firm of Sheehan, Phinney, Bass + Green, where he built a successful practice representing a wide range of manufacturing, service sector and institutional clients in environmental, health and safety, and energy matters. He is a 1982 graduate of Dartmouth College and graduated from the University of Virginia Law School in 1988.

Through his practice and volunteer efforts, he has enjoyed a solid working relationship with many of DES's programs including Brownfields, Wetlands, Hazardous Waste, and Superfund, among others.

His many memberships, admissions and community involvement have included the New Hampshire Bar Association, the American Bar Association, chair and member of the board of directors of the New Hampshire Land and Community Heritage Investment Program, chair of the steering committee for the WasteCap Resource Conservation Network, and secretary and board member of the Institute for Community, Business and the New Hampshire Economy. He also contributed nine years of service to the board of trustees of the Audubon Society of New Hampshire.

All of DES extends a warm welcome to our new commissioner and we look forward moving ahead as he develops and implements his agenda and priorities for our agency. ■

Superior Court orders Pittsburg landowners to pay penalties for deliberately violating laws

The Attorney General's office and DES recently announced that the Coos County Superior Court ruled that Pittsburg landowners Rose and Joseph Marino must pay penalties for violating the Comprehensive Shoreland Protection Act, the Dredge and Fill in Wetlands Act, and the Water Pollution Control Act. The Court ordered the Marinos to pay penalties totaling as much as \$65,000 for constructing a single-family residence within 50 feet of the shoreline

Marino Case, continued on page 3

Commissioner Nolin reflects on accomplishments

This is my final column as commissioner of DES, and as many people consider autumn as a time for reflection, I have taken some time to reflect on my time as commissioner. Together, we have faced our share of challenges and celebrated many successes. I want to thank all of the talented professionals who come to work each day to make DES such an outstanding agency. I knew, before becoming commissioner, that the heart and soul of DES lies with its staff, and my initial impression of DES and its programs has only been strengthened over the past three and one-half years.

I tried whenever possible to promote from within, which contributes to enhanced personal career development and agency consistency. One of my standing goals was to empower all staff to address problems critically and to think creatively and possess the internal freedom to seek solutions "outside the box," if necessary. There have been many successes, both large and small, related to that initiative during my tenure. For that, I am truly proud.

My open door policy provided access to many groups that previously

felt they had no voice with DES. As an example, my administration's top priority was to keep a promise to the septage haulers association by highlighting the need to increase septage disposal capacity across the state. I am happy to report that much progress has been made to achieve that important goal, and our citizens will enjoy the fruits of that labor.

I will remember victories over challenging issues that most said could not be accomplished, including a first-of-its-kind public/private partnership forged for addressing the Colebrook municipal landfill project that resulted in a win for the town, a win for the state, and a win for the environment, especially for Lime Pond and its ecosystem.

Other accomplishments include expanding the reach of DES to include the New Hampshire Coastal Program, incorporating within DES many health-related programs previously included within the NH Department of Health and Human Services, protecting and securing funding for the Volunteer Lake Assessment Program, and the passage of stronger mercury emissions legislation.

The job of a DES commissioner is by no means for the faint of heart. Due to the nature of the work, the incumbent is faced with difficult daily decisions that must be evaluated and balanced quickly and effectively, and support the best interests of New Hampshire. Demands on the commissioner are constantly changing. To ensure continued success, the incumbent must be willing to accept new ideas and embrace changing conditions, and must be vigilant with unwavering attention to our environmental quality, the vitality of our economy, and the safety of our state's residents. I am confident that Governor Lynch, by selecting Tom Burack as my successor, has chosen a capable individual to tackle these challenges head-on. I stand ready to ensure a smooth transition between our two administrations.

It has been my sincere privilege to serve as commissioner of DES, and I wish all of my colleagues the best of luck in all future endeavors.

Michael P. Nolin

Air monitoring program receives high marks from EPA

New Hampshire's air monitoring program recently received high marks from EPA for operations at its Manchester location. EPA "through the probe" (TTP) audits conducted there in August for four gaseous parameters showed superior results. The parameters tested included ozone, nitrogen oxides, sulfur dioxide and carbon monoxide. TTP audits are relatively new and test the entire monitoring system – the air collection manifold outside the building, the transfer lines that bring the air into the equipment inside the building, and the specific instrumentation analysis. According to EPA's TTP audit contractor, the results at Manchester were some of the best he had ever seen!

This isn't the first time a New Hampshire air monitoring site has demonstrated superior audit results. The air monitoring station in Portsmouth passed TTP audits last year with similar numbers. Most recently, EPA ozone audits at the Lebanon and Keene monitoring stations showed exceptional accuracy with an average deviation in both cases of less than 1 percent. Congratulations to the DES air monitoring staff for protecting public health and the environment! ■

ENVIRONMENTAL NEWS



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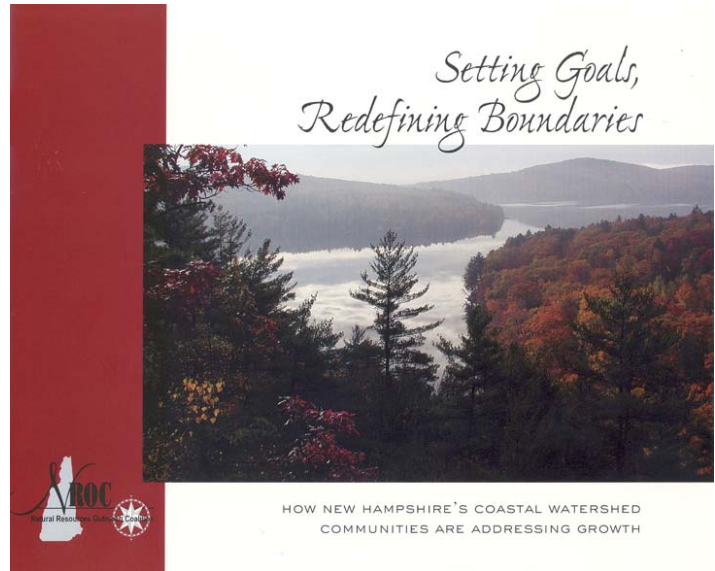
Researchers find Seacoast coalition effective

There is a coordinated assistance program to help New Hampshire coastal watershed communities with their growing pains that, in fact, works. According to outside researchers, New Hampshire's Natural Resources Outreach Coalition (NROC) is a cost-effective, successful program helping communities protect their natural resources while accommodating growth.

Since 1999, NROC, a multi-organizational initiative including UNH Cooperative Extension, DES, Regional Planning Commissions, and the NH Estuaries Project, has been offering planning, facilitation, technical and grant funding assistance to the 42 New Hampshire coastal watershed communities. The NROC program helps community decision-makers and residents to better understand their community's resources, the actions necessary to sustain them, and how to use this information as a basis for informed natural resource-based land conservation planning and land use decision making.

As with any coalition, there is considerable effort and investment in coordinating and delivering the services of multiple partners, and funding the program is a consistent concern. To gauge if NROC was effectively working as a coalition in assisting communities, the DES Coastal Program solicited an evaluation of NROC from an outside institution. The resulting evaluation report, prepared by NH Center for the Environment at Plymouth State University, provides a detailed analysis of the perceptions of community participants and NROC team members in addition to a cost-benefit analysis of the program.

NROC participants indicated that they strongly believe that the program is beneficial to Seacoast communities and that communities could not have addressed their concerns as effectively without NROC. For more information about the NROC program, visit <http://extension.unh.edu/CommDev/NROC/CANROC.cfm> or contact Amanda Stone (603) 364-5324 or amanda.stone@unh.edu. ■



Marino Case

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of Back Lake and for altering the bank of Back Lake without state approval. The ruling may also result in removal of all or part of the existing structure. The ruling comes in a civil enforcement action filed by the state in December 2004.

The Marinos own a 0.13-acre parcel adjacent to Back Lake. In October 2004, the Marinos began construction of a new home between 15 and 20 feet from the edge of the lake on the previously undeveloped lot. The Marinos installed pipes, sinks, toilets, and other water-related fixtures in the home claiming that they were exempt from State septic and shoreland laws. The Marinos also excavated for an overflow drain in the bank of Back Lake and placed fill from their excavation on the banks of Back Lake without authorization.

On September 11, 2006, the Court (Vaughn, J.) ruled that despite repeated warnings by State officials, the Marinos continued constructing in violation of State law. The Marinos persisted even though, as the Court said, the law should have been "abundantly clear to Mr. Marino." The Court ruled that the Marinos' actions showed "a callous disregard for the rule of law." In fact, even after being sued by the State, the Marinos actually asked their contractor to "rush the project to completion," the Court said. The Court further ruled that the record was "replete with examples of this deliberate conduct." The Court assessed a penalty of up to \$65,000 for the Marinos' actions. More importantly, the Court ruled that the Marinos must either obtain appropriate after-the-fact authorization for the existing structure, or remove the structure either in total or in part.

"This decision protects several important State programs and refuses to reward a willful disregard for State law," said DES Commissioner Michael Nolin.

"Given the deliberate nature of the Marinos' violations, enforcement actions like this one are necessary to ensure that people do not profit from their willingness to ignore State environmental requirements," said Attorney General Kelly Ayotte. For further information, contact Assistant Attorney General K. Allen Brooks at (603) 271-3679, or go to www.state.nh.us/nhdoj/publications/nreleases/pdf/091406.pdf. ■

Energy efficient lighting comes to the State House

At a recent event held in Concord, state legislative leaders announced the change-out of incandescent light bulbs throughout the State House to energy efficient compact fluorescent lights. Rep. Larry Ross and Sen. Bob Odell made the announcement in front of the State House in conjunction with the national *Change a Light, Change the World* Campaign. Visitors to the State House can already see some of the new lights in several of the chandeliers on the first floor.



Sen. Bob Odell was one of several supporters making the announcement in front of the State House in conjunction with the national *Change a Light, Change the World* Campaign.

Over 1,000 inefficient incandescent light bulbs will be replaced with bulbs that use 75 percent less energy, saving an estimated 113,000 kilowatt-hours of electricity and over \$9,000 per year.

The announcement supports Governor Lynch's initiative to reduce energy use in state government by 10

percent. Alice Chamberlin, the governor's policy advisor, read a proclamation from the Governor, which stated in part, "If every home in New Hampshire made this one change, our state would save enough energy to light all the households in Concord for 270 days and prevent 40 million pounds of greenhouse gas emissions."

The Energy Star *Change a Light, Change the World* Campaign is a national call-to-action to encourage every individual to save money and protect the environment by switching to energy efficient lighting – one light bulb at a time. New Hampshire state agencies are participating in the *Change a Light* challenge and have set a goal of getting 1,000 state employees to take the pledge to change at least one light at home to an energy efficient bulb.

The State House lighting change-out project was initiated by Rep.



The Senate Chamber's chandeliers, as well as other lights in the State House, will be changed-out with energy efficient compact fluorescent lights.

Suzanne Harvey of Nashua. Paradigm Nouveau Enterprises, LLC, a Colorado-based company, donated the compact fluorescent light bulbs to the state as part of its New Light Project.

For information on the campaign, contact Kathy Brockett at DES, (603) 271-6284, or visit www.energystar.gov/changealight. ■



Executive Councilor Ray Burton (right) and DES Commissioner Nolin (second right) endorsed the recommendation from the Rivers Management Advisory Committee that the Ammonoosuc River be designated into the NH Rivers Management and Protection Program. State officials, including Rivers Coordinator Steve Couture (third right), made the announcement at an event held in Littleton during a two-day DES North Country tour, and were joined by Ammonoosuc River Corridor Committee representatives.

Contaminated sites rules revised

By Gretchen Hamel, Administrator, Legal Unit

Currently, DES has two sets of rules that specify requirements and procedures for the notification, reporting, investigation, remediation, and management of sites where discharges of contaminants have occurred: Env-Wm 1600, Standards for Reporting and Remediation of Oil Discharges, and Env-Wm 1403, Groundwater Management and Groundwater Release Detection Permits.

Env-Wm 1600 establishes requirements and procedures for responding to and remediating oil discharges, including notification, initial response actions, initial site characterizations, investigation due to discovery of a discharge from unknown sources, site investigations, remedial action plan, soil clean up standards, soil storage, treatment and disposal criteria, and site closure criteria.

Env-Wm 1403 establishes requirements and procedures for responding to and remediating discharges of regulated contaminants, including ambient groundwater quality standards, site investigation, remedial action, groundwater management permits, groundwater release detection permits, water quality and groundwater monitoring wells, certificates of completion, and certificates of no further action.

In order to clarify and streamline compliance with these requirements and as part of DES's larger effort to redesignate its rules into new subtitles, the two existing rules are being re-adopted and reorganized into two new chapters: Env-Or 600 for management of contaminated sites, and Env-Or 700 for groundwater release detection permits required under RSA 485-C:13.

Env-Or 600 consolidates all of the requirements from Env-Wm 1600 and

Env-Wm 1403 for reporting discharges of contaminants (including oil), and for the investigation, remediation, and management of sites where discharges of contaminants (including oil) have occurred. The cleanup standards for soil and groundwater that now will be in Env-Or 600 include updated standards based on the most recent public health information. Env-Or 600 will incorporate the Groundwater Management Permit program previously in Env-Wm 1403, and will consolidate the provisions previously in both Env-Wm 1403 and Env-Wm 1600 relative to the issuance of Certificates of Completion or Certificates of No Further Action. Additional revisions are proposed to clarify the rules, including clarification of which documents must be prepared by professional engineers or professional geologists.

Env-Or 600 also is proposed to include procedures and criteria for establishing activity and use restrictions associated with the Brownfields legislation (RSA 146-F), a program that encourages the voluntary cleanup and redevelopment of contaminated properties.

As a result of the reorganization of the above-noted provisions, Env-Or 700 will include only the Groundwater Release Detection Permit program requirements, which currently are in Env-Wm 1403 and are not related to contaminated sites. This program establishes requirements and procedures for groundwater monitoring for early detection of possible groundwater impacts associated with the activities listed in RSA 485-C. The focus of the program will not change under the proposed rules. The proposed rules have been revised for clarity and include organizational modifications to make the rules more readable. ■

EPA concludes second consolidated review

EPA Region I New England recently concluded its second consolidated review of DES's RCRA Subtitle C (Hazardous Waste Compliance), Clean Air Act (CAA) Stationary Sources, and surface water discharge programs (analogous to the federal NPDES program, for which DES is not delegated). EPA's first consolidated review was conducted in 1997-98, with the final report being issued in 1999. As a result of that review, DES implemented several changes in its internal procedures relative to identifying and documenting violations and calculating and documenting penalties, and also developed its Compliance Assurance Response Policy (CARP). The CARP is a comprehensive document that identifies the factors used when evaluating violations of environmental laws, explains the range of formal and informal actions available to DES, and establishes parameters for calculating and settling penalties.

While EPA is making recommendations to further improve DES programs, the report concludes that DES is meeting federal standards for implementing the RCRA Subtitle C and CAA Stationary Source programs. EPA recognizes that the issues on which it is requesting further improvements are "continuing challenges" for government programs, and do not reflect any underlying weakness in DES's understanding of the programs or commitment to environmental enforcement. ■

EPA revises small particle standards again

As required by the Clean Air Act, EPA has set outdoor air quality standards – called National Ambient Air Quality Standards, or NAAQS – for six common air pollutants: carbon monoxide (CO), sulfur dioxide (SO₂), nitrogen dioxide (NO₂), lead, ozone, and particulate matter (PM, or particles). Through considerable effort, air pollution concentrations are way down in New Hampshire for four out of six of these pollutants, leaving ongoing challenges with ozone and particles.

To ensure the public safety concerns are kept current, EPA is required to review the adequacy of the air pollution standards every few years. Most of the standards have remained relatively stable, but the NAAQS for particles have undergone several revisions in recent years. In 1997, the standard was revised when science suggested that the greatest health risk comes from particles sized smaller than 2.5 microns in diameter (PM_{2.5}), or one-30th the diameter of a human hair. These particles are more easily trapped deep in the lungs. Previously, the standard focused on inhalable-sized particles smaller than 10 microns in diameter (PM₁₀), which included the PM_{2.5} fraction.

PM standard, *continued on page 7*

TrueValue and DES partner on free lamp recycling

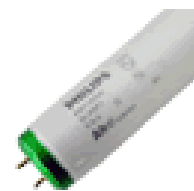
Thanks to a new program offered by TrueValue hardware stores and DES, homeowners and small businesses now have a convenient way to recycle spent fluorescent lamps. Fluorescent lamps save energy, thereby benefiting the environment. However, all fluorescent lamps contain some mercury, which is a highly toxic heavy metal that can harm the environment and our health when improperly disposed of. To keep mercury out of the environment, homeowners and small businesses may now bring their spent lamps to any participating TrueValue hardware store where the lamps will be collected and properly recycled at no cost to the consumer.

Fluorescent lamps save energy and reduce pollution when compared to standard incandescent lamps. For example, when PSNH assisted lamp change over projects in 18 major companies, the resulting 2.4 million kilowatt hours of energy saved reduced power plant carbon dioxide emissions by over 3.6 million pounds and sulfur dioxide emissions by over 24,000 pounds. However, the 106 pounds of mercury estimated to be annually generated by New Hampshire's 2.4 million spent lamps makes fluorescent lamps one of the largest sources of mercury in the state. Mercury is a potent toxin that can affect the human nervous system, damage developing fetuses, and interfere with brain function in children. Because there are few recycling or disposal options for homeowners or small businesses, only about 20 percent of the state's spent fluorescent lamps are properly recycled; the rest are generally tossed in the trash where they can create serious environmental problems when broken or burned.

In this first of a kind program, TrueValue hardware stores, DES, the Vermont Department of Environmental Conservation, and Public Service of New Hampshire teamed up to create a system to collect, consolidate and recycle spent fluorescent lamps generated by homeowners and small businesses in New Hampshire and Vermont. Here's how it works: The TrueValue Distribution Center in Manchester stocks special lamp recycling boxes provided by Complete Recycling Solutions, a state-approved lamp recycling facility. TrueValue will use its product distribution system to send empty recycling boxes to participating, local TrueValue stores. Homeowners and small businesses may bring up to six fluorescent lamps to the local store where they will be accepted for free and stored in the recycling boxes. When the boxes are full, returning TrueValue distribution trucks will take the lamps back to the distribution center where they will be picked up by Complete Recycling Solution for recycling.

This program is being offered as a free service to consumers. The cost of recycling the lamps is paid by DES. PSNH is helping DES with program advertising, and TrueValue hardware supplies the store locations, manages the lamps and transports them to their distribution center for consolidation and recycling. This program was piloted in Vermont last August, and has been so popular there that TrueValue may eventually expand it throughout its national chain of stores.

For more information on the program, please go to the DES Pollution Prevention web page at www.des.nh.gov/nhppp/ and click on "What's New." ■



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ARD responds to air quality complaints

or, Who ya gonna call? Smokebusters!

If you smell a strange or foul odor, see excessive smoke or dust, who do you call? If you have a complaint or a question regarding air quality issues, indoor or outdoor, you should call Mike O'Brien, the senior compliance assessment specialist (also known as the complaint manager) in the DES Air Resources Division. Mike is responsible for managing ARD's response to approximately 300 to 400 complaints a year. Most complaints are received by telephone, but they can also be received via fax and email.

When a complaint is received, it is assigned a number and the details are entered and tracked in a database. Then either Mike or one of his co-workers will follow-up on the complaint or, if appropriate, refer it to other sections in ARD or even to another division. ARD believes that every complaint, whether anonymous or not, requires investigation and resolution. Further, given the state's limited resources, these complaints are often helpful in assisting ARD to locate sources of air pollution that may require air permits.

The process for responding to each complaint is the same: the complainant is interviewed; the source of the problem is identified as best as possible: the responsible party contacted; and an onsite investigation is conducted, if necessary. Often the complaints are resolved by making the source aware of the problem, offering technical assistance, and providing outreach materials. In some cases, air samples may be collected and analyzed to determine any potential impacts to public health. Sometimes a complaint investigation will uncover serious violations that result in the case being referred for potential enforcement.

Over the past few years, the vast majority of the complaints received are related to odors. In 2006, ARD received 360 complaints, 206 of which were complaints of odors. Many odor complaints have been attributed to solid waste landfills in the state. While ARD does not have any specific odor regulations, odors may often be indicative of an operational problem at a facility. As people become more aware of their surroundings and environmental regulations, and demand that their way of life not be affected by nearby facilities, ARD is likely to spend even more time responding to odor complaints.

Mike O'Brien can be reached at (603) 271-0907 or at mobrien@des.state.nh.us. ■

The DES Smokebusters are ready to respond to your complaint or question on air quality issues! They are Mike O'Brien, Karen Rantamaki, Ray Walters, Alan Moulton and Christie Peshka.



PM standard

continued from page 6

The 1997 revision added a new separate PM2.5 standard to supplement the existing PM10 standard. The new standard was set at 65 micrograms per cubic meter for a daily average and 15 micrograms per cubic meter for a yearly average. Of course, there are usually legal challenges whenever a new standard that triggers significant investment in pollution control technology is introduced. In this case, the courts agreed that having both PM10 and PM2.5 standards on the books resulted in a double-counting of the PM2.5 component and sent the new standards back to EPA to be revised.

EPA recently issued a new rule that strengthens the daily PM2.5 standard to 35 micrograms per cubic meter, but maintains the annual standard at 15 micrograms per cubic meter. The new rule also retains the existing PM10 daily standard, thus not eliminating the double-counting situation.

DES agreed with the daily change for PM2.5 and always thought the original level of 65 was too high and needed to be reduced to the 30-35 range. However, DES also wanted to see the annual portion of the PM2.5 standard reduced from 15 to 12-13 micrograms per cubic meter as suggested by Clean Air Scientific Advisory Committee. EPA declined to make such a change at this time.

DES is carefully reviewing the new rule to see if it provides the right level of air quality protection and can withstand legal scrutiny.

For information on the revised PM standards and how they will affect New Hampshire, contact Jeff Underhill at (603) 271-1102 or junderhill@des.state.nh.us. ■

Governor

continued from page 1

than 88,000 KWh; reduce sewer discharge of paper fiber by 300,000 pounds; recycle 650,000 pounds of solid waste; and reduce packaging costs. This pollution prevention program is saving the company \$150,000 annually. Monadnock Paper Mills promotes environmental awareness among employees and local residents, maintains compliance with environmental standards, invests in research to determine innovative ways to reduce waste and to efficiently use natural resources, and uses environmentally-friendly materials during the design and development of new products.

Park Nameplate is a manufacturer of decorative product identification emblems used for automotive, appliance and consumer applications.

Their award-winning environmental improvement projects included reducing methyl ethyl ketone (MEK) used for screen washing by 7,500 pounds of volatile organic compounds (VOC); recycling and reusing plastic product trays; installing energy efficient lighting to save 19,200 KWh; recycling contaminated shop wipes and office paper; and upgrading to ISO 14001 registration. These projects will save the company \$25,000 per year. Park Nameplate is committed to the continual improvement of environmental programs and to the implementation of appropriate management practices for the prevention of pollution. Their environmental steering committee sets and reviews environmental objectives and targets; is responsible for communicating the environmental policy to all employees and other interested parties; and is responsible for managing the effective implementation of the environmental objectives and targets through employee participation and the use of the Environmental Management System.

Symmetry Medical PolyVac in Manchester received honorable mention award for its pollution prevention efforts.

I applaud these companies in implementing changes that are both right for the environment and for their bottom line. I urge others in industry to contact the New Hampshire Pollution Prevention Program at (603) 271-6460 or www.des.nh.gov/nhppp/ to see how their own companies can benefit from efforts to prevent pollution.

John Lynch, Governor



November Conferences

DES will be represented at these conferences.

NOV 13-15 Brownfields 2006

Boston Convention & Exhibition Center
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For information, www.brownfields2006.org

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www.des.nh.gov/Rivers/2006Conference

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